

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Collection Agency License of:

No. 14F-BD22-SBD

3 **TURNING POINT CAPITAL, INC. AND**
4 **JOHN C. MANLEY, JR., PRESIDENT**
170 Northpointe Parkway, Suite 700
Amherst, NY 14228

**ORDER OF SUMMARY SUSPENSION
AND NOTICE OF OPPORTUNITY FOR
HEARING**

5 Respondents.
6

7 The Arizona Department of Financial Institutions (the "Department") hereby finds that
8 Turning Point Capital, Inc. and John C. Manley, Jr., President ("Respondents") have violated the
9 provisions of the Arizona Revised Statutes ("A.R.S."), Title 32 as set forth below and finds that the
10 public health, safety and welfare require emergency action pursuant to A.R.S. §§ 32-1053 and 41-
11 1092.11(B).

12 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona collection agency
13 license held by Respondents. **This suspension is effective immediately.**

14 EFFECTIVE this 11th day of September, 2013.

15 Lauren W. Kingry
16 Superintendent of Financial Institutions

17 
18 By Richard Fergus
19 Licensing Division Manager

20 PLEASE TAKE NOTICE that, pursuant to Titles 6 and 41 of the Arizona Revised Statutes
21 and Title 20, Chapter 4 of the Arizona Administrative Code ("A.A.C."), Respondents are hereby
22 notified that they are entitled to a hearing to contest the allegations set forth in this Order. The
23 Request for Hearing shall be filed with the Arizona Department of Financial Institutions (the
24 "Department") pursuant to A.R.S. § 6-137(D) within **thirty (30) days** of service of this Order and
25 shall identify with specificity the action or order for which review is sought in accordance with
26 A.R.S. § 41-1092.03(B).

Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or her own behalf or by counsel. If Respondents are represented by counsel, the information required by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility.** Requests for special accommodations must be made as early as possible to allow time to arrange the accommodations. If accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S. § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an Informal Settlement Conference is requested, a person with the authority to act on behalf of the Department will be present (the "Department Representative"). Please note that in requesting an Informal Settlement Conference, Respondents waive any right to object to the participation of the Department Representative in the final administrative decision of this matter, if it is not settled. In addition, any written or oral statement made by Respondents at such informal settlement conference, including written documentation created or expressed solely for purposes of settlement negotiations, are inadmissible in any subsequent administrative hearing. (*See* A.R.S. § 41-1092.06 for rules regarding informal settlement conferences.) Conversely, any written or oral statement made by Respondents outside an Informal Settlement Conference is not barred from being admitted by the Department in any subsequent hearing.

If Respondents do not request a hearing, this Order shall become final. If Respondents request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time

1 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
2 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S.
3 § 6-132; (3) the suspension or revocation of Respondents' license pursuant to A.R.S. § 32-1053; and
4 (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules
5 regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

6 FINDINGS

7 1. Respondent Turning Point Capital, Inc. ("TPC") is a New York corporation authorized
8 to transact business in Arizona as a collection agency, license number CA-0916298, within the
9 meaning of A.R.S. § 32-1001, *et seq.* The nature of TPC's business is that of soliciting claims for
10 collection and collection of claims owed, due, or asserted to be owed, or due, within, the meaning of
11 A.R.S. § 32-1001(2)(a).

12 2. Respondent John C. Manley, Jr. is the President of TPC and is authorized to transact
13 business in Arizona as a collection agency within the meaning of A.R.S. §§ 32-1001, *et seq.*

14 3. Pursuant to A.R.S. § 32-1021(B)(2), as a prerequisite to doing business as a collection
15 agency, Respondents are required to have a surety bond deposited with the Superintendent.

16 4. On July 5, 2013, the Department received a Notice of Cancellation of Bond ("Bond
17 Cancellation Notice") from Hartford Fire Insurance Company, dated July 2, 2013, stating that TPC's
18 surety bond, number 01BSBFU7771, would be canceled effective August 11, 2013.

19 5. On July 9, 2013, the Department sent a Notice to Respondents, to the attention of Mr.
20 Robert Manley, via facsimile and via email (bobmanley@turningpointcap.com), informing
21 Respondents of the Department's receipt of the Bond Cancellation Notice, indicating that TPC's
22 surety bond was to expire on August 11, 2013. The Department warned Respondents that a lapse in
23 bond coverage was a serious violation, and requested that Respondents provide a copy of the original
24 bond or bond rider reinstating surety bond coverage or surrender their license.

25 6. On August 26, 2013, the Department sent an email message to Bob Manley
26 (bobmanley@turningpointcap.com), and John Manley (johnmanley@turningpointcap.com) at TPC,

1 stating that the Department sent two notifications to Respondents on July 9, 2013 (via facsimile and
2 email) informing Respondents that the surety bond for their collection agency license would expire
3 on August 11, 2013. The message stated that as of August 26, 2013, the Department had not
4 received a response from Respondents, and therefore a summary suspension would be forthcoming.

5 7. To date, Respondents have failed to respond to the Department regarding cancellation of
6 TPC's surety bond.

7 8. Having failed to surrender their license and having failed to provide documentation
8 regarding the reinstatement of their bond or documentation of a new surety bond, Respondents do
9 not have the required surety bond in order to conduct business as a collection agency.

10 9. The conduct described above constitutes an unsafe or unsound practice and a violation
11 of Arizona law that poses an immediate threat to the public health, safety, and welfare warranting
12 immediate suspension of Respondents' collection agency license.

13 10. The conduct described above constitutes grounds for the suspension of Respondents'
14 collection agency license.

15 LAW

16 1. Pursuant to A.R.S. Title 6 and Title 32, Chapter 9, the Superintendent has the authority
17 and duty to regulate all persons engaged in the collection agency business and with the enforcement
18 of statutes, rules, and regulations relating to collection agencies.

19 2. By the conduct set forth in the Findings, Respondents have failed to maintain the surety
20 bond required by A.R.S. § 32-1021(B)(2)

21 3. Pursuant to A.R.S. §§ 32-1053 and 41-1092.11(B), the conduct described above
22 constitutes an immediate threat to the public health, safety and welfare warranting immediate
23 suspension of Respondents' collection agency license.

24 4. Respondents have failed to conduct business in accordance with the law and have
25 violated Title 32, Chapter 9, which constitute grounds for the suspension or revocation of
26 Respondents' collection agency license pursuant to A.R.S. § 32-1053(A)(3).


5. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating collection agencies in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

6. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

WHEREFORE, if Respondents do not request a hearing to contest the above Findings or produce evidence of a valid surety bond, Respondents' license shall remain suspended unless and until reinstated or until said license expires by operation of law.

DATED this 11th day of September, 2013.

Lauren W. Kingry
Superintendent of Financial Institutions

By 
Richard Fergus
Licensing Division Manager

ORIGINAL of the foregoing filed this 11th
day of September, 2013, in the office of:

Lauren W. Kingry, Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Annette Krenz
2910 N. 44th St., Suite 310
Phoenix, AZ 85018

COPY mailed/delivered same date to:

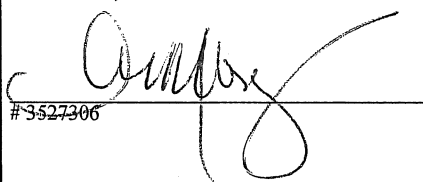
Craig A. Raby, Assistant Attorney General
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1275 West Washington Street
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Richard Fergus, Licensing Division Manager
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 AND COPY MAILED SAME DATE, by
2 Certified Mail, Return Receipt Requested to:

3 John C. Manley, Jr., President
4 Turning Point Capital, Inc.
5 170 Northpointe Parkway, Suite 700
6 Amherst, NY 14228
7 Respondents

8 National Registered Agents, Inc.
9 Statutory Agent for Turning Point Capital, Inc.
10 2390 E. Camelback Road
11 Phoenix, AZ 85016

12 
13 #3527306

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